

REMARKS:

In the Office Action the Examiner noted that claims 14, 17, 20, 23, and 26 are pending in the application, and the Examiner rejected all claims.

By this Amendment, claims 14, 17, 20, 23, and 26 have been amended. New claim 27 is added herein. No new matter has been presented. Claims 1-13, 15, 16, 18, 19, 21, 22, 24 and 25 remain cancelled. Thus, claims 14, 17, 20, 23, 26 and 27 are pending in the application. The Examiner's rejections are traversed below, and reconsideration of all rejected claims is respectfully requested.

CLAIM REJECTIONS UNDER 35 USC §103:

In item 4 on page 2 of the Office Action the Examiner rejected claims 14, 17, 20, 23, and 26 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,684,195 (Deaton) in view of Official Notice. The Applicants respectfully traverse the Examiner's rejections of the remaining claims.

Independent claims 14 recites, "a point calculating unit on the store side configured to... decrease the customer's cumulative issued points according to a time spent for providing the electronic information service in response to the customer's request by redeeming the customer's cumulative issued points", where the customer's cumulative issued points are decreased "in proportion to the time period associated with providing the electronic information service." Deaton and the Official Notice do not teach or suggest these features of the claimed invention.

Similarly, claim 26 recites, "decreasing, on the store side predetermined points in proportion to **a lapse of the time period during which the electronic service** is transmitted to the customer as requested, where the electronic service transmits at least any of video information, voice information, software information, music information and database information to a terminal of the customer" (emphasis added).

With respect to the time interval in Deaton, the system may either maintain that incentive over a preselected time interval or may initially or subsequently reduce that incentive over a preselected time interval (see, col. 103, lines 52-63). Deaton is silent regarding decreasing "the customer's cumulative issued points according to a time spent for providing the electronic information service in response to the customer's request by redeeming the customer's cumulative issued points", as recited in claim 14 for example.

The Office Action asserts that Deaton, at col. 13, lines 52-56, discusses the claimed decreasing of cumulative points of the customer. However, Applicants respectfully disagree with this assertion because the incentive described in Deaton, at col. 13, lines 52-56, is a newly issued incentive instead of the already have been issued and possessed points of the customer claimed.

The "incentive" discussed in Deaton at col. 104, lines 3-18, refers to increasing a shopping visit incentive for a customer if the previously provided (\$2) incentive was not enough. This is in contrast to the decreasing cumulative points already possessed by the customer.

Applicants respectfully submit that it is unreasonable to interpret Deaton that pertains to new incentives to correspond to the claimed process of "decreasing from cumulative points" already allotted to the customer.

Moreover, the claimed invention is configured implement point management between "a customer terminal" connected via "a public communication circuit" and an electronic information service provided to the customer using "the cumulative points."

At least on page 3 of the Office Action, the Examiner indicates that Official Notice is taken that it is old and well known to provide services electronically such as video information, voice information, software, etc., to avoid the need for the customer to have to wait for the goods or services or having to pick up the goods or services from a remote location. Applicants respectfully traverse the Examiner's statement because supporting evidence related to the providing of the claimed information based on points has not been provided, and request that the Examiner produce authority for the statement.

As the Official Notice merely relates to generally providing services electronically, the Official Notice does not cure the deficiencies of Deaton regarding claims of the present application.

The Applicants specifically point out the following errors in the Examiner's action.

First, the Examiner uses common knowledge ("well-known") evidence for the rejection. As explained in the M.P.E.P.,

any facts so noticed should... serve only to "fill in the gaps" in an insubstantial manner which might exist in the evidentiary showing made by the Examiner to support a particular ground for rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the

principal evidence upon which a rejection is based.

M.P.E.P. § 2144.03

Second, the noticed fact is not considered to be common knowledge or well-known in the art. In this case, the limitation is not of notorious character or capable of instant and unquestionable demonstration as being well-known. Instead, this limitation is unique to the present invention (see, M.P.E.P. § 2144.03(A) (the notice of facts beyond the record which may be taken by the Examiner must be “capable of such instant and unquestionable demonstration as to defy dispute”).

Third, there is no evidence supporting the Examiner’s assertion (see, M.P.E.P. § 2144.03(B) (“there must be some form of evidence in the record to support an assertion of common knowledge”).

Fourth, the Examiner appears to be basing the rejections, at least in part, on personal knowledge. The Examiner is required under 37 C.F.R. § 1.104(d)(2) to support such assertion with an affidavit when called for by the Applicant. The Examiner is called upon to support such assertion.

Further, even if the Examiner’s assertion and rejection based on well known is valid, the claimed invention is distinguishable as above-discussed.

Claims depending from the independent claims include all of the features of that claim plus additional features which are not disclosed by the cited references. For at least the above-mentioned reasons, claims depending from the independent claims are patentably distinguishable over the cited references. The dependent claims are also independently patentable.

For example, as recited in claim 27, “points are deducted from the customer’s cumulative points in correspondence to an amount of time lapsed during the time period the electronic information service is provided to the customer terminal.” The cited references do not teach or suggest these features of the claimed invention.

Therefore, withdrawal of the rejection is respectfully requested.

CONCLUSION:

There being no further outstanding objections or rejections, it is respectfully submitted that the application is in condition for allowance. An early action to that effect is courteously

solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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By: 
Temnit Afework
Registration No. 58,202

1201 New York Ave, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501